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Administration of justice at the United Nations

Administration of justice in the Secretariat: outcome of the work of the Joint Appeals Board during 2006 and 2007 and statistics on the disposition of cases and work of the Panel of Counsel

Report of the Secretary-General

Summary

The present report is submitted in response to the request of the General Assembly to the Secretary-General, in its resolution 55/258 (sect. XI, para. 5), to report to the Assembly on an annual basis on the outcome of the work of the Joint Appeals Board. In response to that request, the report of the Secretary-General on the administration of justice in the Secretariat (A/62/179) provided information concerning the outcome of the work of the Joint Appeals Board for 2005-2006. The present report provides information on the work of all the Joint Appeals Boards in New York, Geneva, Vienna and Nairobi for 2007. For comparative purposes, the present report also contrasts 2007 and 2006 data. In response to the request of the General Assembly in its resolution 57/307, the report also provides statistics on the disposition of cases and information on the work of the Panel of Counsel. To that end, the above-mentioned report of the Secretary-General on the administration of justice in the Secretariat provided information on the disposition of cases and work of the Panel of Counsel for 2006. The present report provides that information for 2007.

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I. Introduction

1. In its resolution 55/258 (sect. XI, para. 5), the General Assembly requested the Secretary-General to report to it on an annual basis on the outcome of the work of the Joint Appeals Board. In response to that request, the report of the Secretary-General on the administration of justice in the Secretariat (A/62/179) provided information on the work of all Joint Appeals Boards (New York, Geneva, Vienna and Nairobi) for the period 2005-2006. The present report provides information and numerical data on the work of the Joint Appeals Boards for 2007.

2. In its resolution 57/307 (para. 21), the General Assembly requested the Secretary-General to include statistics on the disposition of cases and information on the work of the Panel of Counsel in his annual report on the administration of justice in the Secretariat. In response to that request, the above-mentioned report of the Secretary-General on the administration of justice provided information on the disposition of cases and work of the Panel of Counsel for 2006. The present report provides such information for 2007.

II. Outcome of the work of the Joint Appeals Board

3. Table 1 below sets out information, in numerical and graphic form, on the work of the Joint Appeals Boards in New York, Geneva, Vienna and Nairobi for 2006 and 2007 by providing the number of appeals and suspension of action cases filed and disposed of[1] during those years.

4. As can be seen from the information presented in table 1 below, there was an increase in the number of appeals filed with the Joint Appeals Boards during 2007. The New York Joint Appeals Board received 16 more appeals than in 2006, an increase of 15 per cent. As to the corresponding figures for the other Joint Appeals Boards, the Geneva Board received 11 more appeals as compared to 2006, an increase of 41 per cent. The Vienna Board received 2 fewer appeals in 2007, a decrease of 33 per cent, and the Nairobi Board received 11 appeals, which was the same number as it received in 2006.

5. There is also a difference between the two periods in the number of cases disposed of by the Joint Appeals Boards. All four Joint Appeals Boards disposed of more appeals in 2007 than in 2006. Specifically, the number of appeals disposed of by the New York Joint Appeals Board increased by 17 in 2007, an increase of 17 per cent, while the number of appeals disposed of by the Geneva Joint Appeals Board increased by 16, an increase of 59 per cent. The Vienna Joint Appeals Board disposed of 2 more cases in 2007 than in 2006, an increase of 66 per cent, while in Nairobi the Board disposed of 6 more cases in 2007 than in 2006, an increase of 56 per cent.

6. As to the number of pending appeals at the end of the reporting period, the Vienna Joint Appeals Board had 7 pending appeals. The Nairobi Joint Appeals Board had 3 pending appeals. The Geneva Joint Appeals Board had 28 pending

[1] The term "disposed of" refers to appeals with respect to which the Joint Appeals Board has completed its involvement. The figures may include appeals which, though filed during a previous year, were disposed of in subsequent years owing to an existing backlog. This explains why, at times, the number of appeals disposed of is higher than the number of appeals filed.

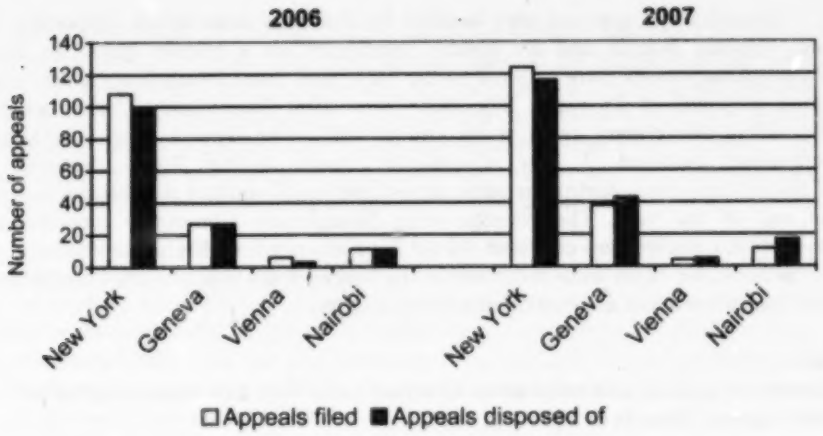
appeals. New York had the highest number of pending appeals. As at the end of 2007, the number of pending appeals at the New York Joint Appeals Board was 101.

7. Disciplinary cases are also handled by the same secretariats supporting the Joint Appeals Boards and are always considered on a priority basis. In 2007, 32 disciplinary cases were referred to the New York Joint Disciplinary Committee, which disposed of 21 cases. The New York Joint Disciplinary Committee had 28 pending disciplinary cases at the end of 2007. The Geneva Joint Disciplinary Committee received 7 new disciplinary cases during 2007, disposed of 17 disciplinary cases during the same period and had 3 pending disciplinary cases at the end of the year. The Nairobi Joint Disciplinary Committee received and considered 1 disciplinary case and did not have any pending disciplinary cases at the end of 2007. No cases were submitted to the Vienna Joint Disciplinary Committee in 2007 and Vienna had no pending disciplinary cases.

Table 1
Number of appeals and suspension of action cases filed and disposed of by all Joint Appeals Boards in 2006 and 2007

Standing Joint Appeals Boards	*2006*	*2007*	*Percentage of variance*
New York: appeals filed	108	124	+15
New York: appeals disposed of	99[a]	116	+17
Geneva: appeals filed	27	38	+41
Geneva: appeals disposed of	27	43	+59
Vienna: appeals filed	6	4	-33
Vienna: appeals disposed of	3	5	+66
Nairobi: appeals filed	11	11	0
Nairobi: appeals disposed of	11	17	+56

[a] One of these appeals comprised 232 cases contesting the same administrative decision (where the Respondent, after long negotiations and a conciliation process, initially agreed for direct submission of the cases to the United Nations Administrative Tribunal and later decided to rescind the contested decision).



8. Table 2 below provides, in both numerical and graphic forms, information on the decisions taken by the Secretary-General on reports of the Joint Appeals Board for 2006 and 2007.

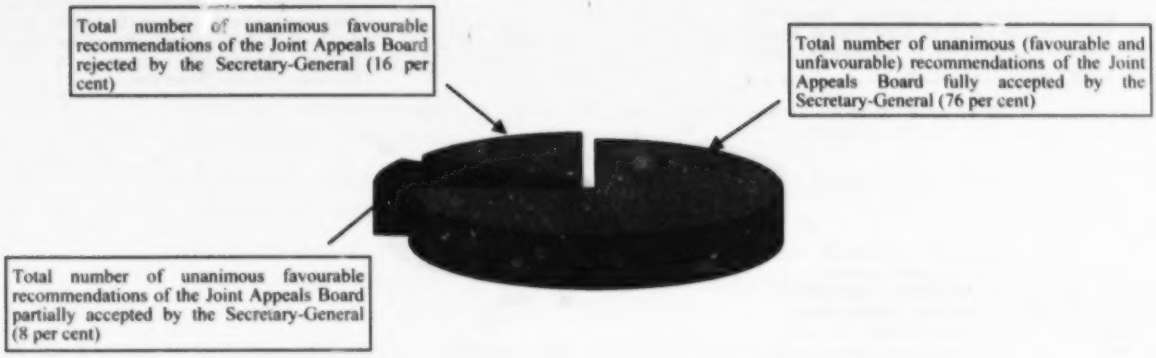
Table 2
Decisions by the Secretary-General on unanimous recommendations of the Joint Appeals Board on appeals and requests for suspension of action in 2006 and 2007

2006

Joint Appeals Board reports from	*Decisions on reports of the Board*	*Unanimous recommendations of the Board*	*Unanimous recommendations of the Board fully accepted by the Secretary-General*	*Unanimous recommendations of the Board partially accepted by the Secretary-General*	*Unanimous favourable recommendations of the Board rejected by the Secretary-General*[a]	*Unanimous unfavourable recommendations of the Board*
New York	64	62	46 (74%)	5 (8%)	11 (18%)	30 (48%)
Geneva	30	30	25 (83%)	2 (7%)	3 (10%)	20 (67%)
Vienna	2	2	1 (50%)	0	1 (50%)	1 (50%)
Nairobi	6	5	3 (60%)	1 (20%)	1 (20%)	2 (40%)
Total	**102**	**99**	**75 (76%)**	**8 (8%)**	**16 (16%)**	**53 (52%)**

84% (full and partial acceptances)

[a] There were no unanimous unfavourable recommendations rejected by the Secretary-General.

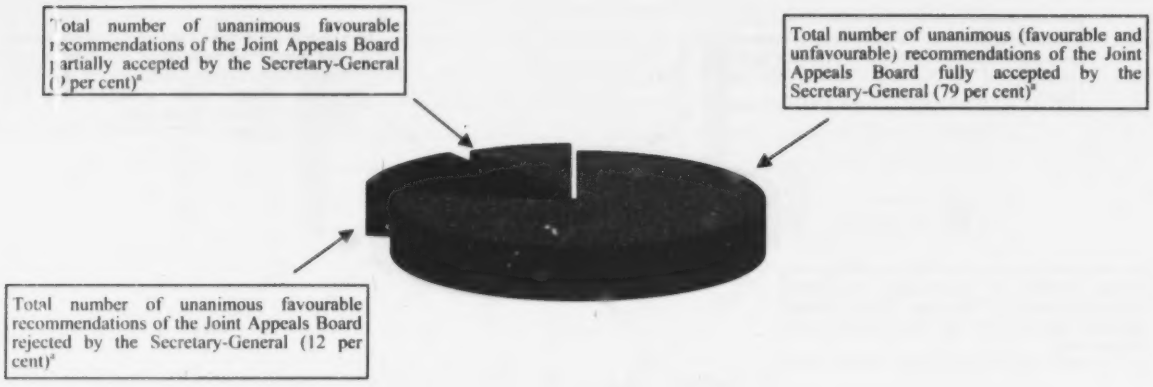

Total number of unanimous favourable recommendations of the Joint Appeals Board rejected by the Secretary-General (16 per cent)
Total number of unanimous (favourable and unfavourable) recommendations of the Joint Appeals Board fully accepted by the Secretary-General (76 per cent)
Total number of unanimous favourable recommendations of the Joint Appeals Board partially accepted by the Secretary-General (8 per cent)

2007

Joint Appeals Board reports from	*Total number of decisions on reports*	*Total number of unanimous recommendations of the Board*	*Total number of unanimous recommendations of the Board fully accepted by the Secretary-General*	*Total number of unanimous recommendations of the Board partially accepted by the Secretary-General*	*Total number of unanimous favourable recommendations of the Board rejected by the Secretary-General*[a]	*Total number of unanimous unfavourable recommendations of the Board*
New York	107	100[a]	78 (78%)	11 (11%)	10 (10%)	57 (57%)
Geneva	43	43	37 (86%)	2 (5%)	4 (9%)	29 (67%)
Vienna	5	5	3 (60%)	0	2 (40%)	3 (60%)
Nairobi	18	16	11 (69%)	1 (6%)	4 (25%)	8 (50%)
Total	**173**	**164**[a]	**129 (79%)**	**14 (9%)**	**20 (12%)**	**97 (59%)**

88% (full and partial acceptances)

[a] There was one unanimous unfavourable recommendation of the New York Joint Appeals Board rejected by the Secretary-General, which represents less than 1 per cent of the 164 unanimous recommendations. This one case is not included in the percentages relating to the total number of unanimous recommendations, which total 100 per cent due to rounding. However, this case explains why the percentages for New York do not add up to 100 per cent


Total number of unanimous favourable recommendations of the Joint Appeals Board partially accepted by the Secretary-General (9 per cent)[a]
Total number of unanimous (favourable and unfavourable) recommendations of the Joint Appeals Board fully accepted by the Secretary-General (79 per cent)[a]
Total number of unanimous favourable recommendations of the Joint Appeals Board rejected by the Secretary-General (12 per cent)[a]

[a] Does not include one unanimous unfavourable recommendation of the New York Joint Appeals Board rejected by the Secretary-General, which represents less than 1 per cent of the 164 unanimous recommendations. Percentages total 100 per cent as a result of rounding.

9. As can be seen from table 2 above and its accompanying figures for 2006 and 2007, the percentage of full and partial acceptances by the Secretary-General of unanimous recommendations of the Joint Appeals Board increased in 2007 in comparison to the previous year (84 per cent for 2006 and 88 per cent for 2007). The percentage of rejections by the Secretary-General of unanimous recommendations of the Board that were favourable to the appellants was low in both periods (16 per cent in 2006 and 12 per cent in 2007).

10. This is in line with the stated policy of the Secretary-General, which is normally to accept unanimous recommendations unless there is a compelling reason of law or policy not to do so. In all such instances, the decisions of the Secretary-General provide detailed reasons for such rejection, which in most cases is attributable to a determination that the Joint Appeals Board may have incorrectly applied law or policy or may have made findings of fact not supported by the evidence available. With the increased training for the members of the Joint Appeals Board and the Joint Disciplinary Committee in the applicable law and policies of the Organization and the availability of the web-based repository of the recent jurisprudence of the Administrative Tribunal (encompassing jurisprudence on judgements rendered from 1980 onwards), the Secretary-General believes that unanimous recommendations are more reliably supported by the evidence, as well as reflective of the applicable law, and that consequently, the percentage of acceptable recommendations should remain at current levels or rise. The Secretary-General, however, maintains the discretionary authority to reject unanimous recommendations of the Joint Appeals Board in cases where he finds that it is in the interests of the Organization to do so.

11. During the reporting period for 2007, in addition to the regular functions required of them, the various secretariats of the Joint Appeals Boards were involved in the following activities to different extents:

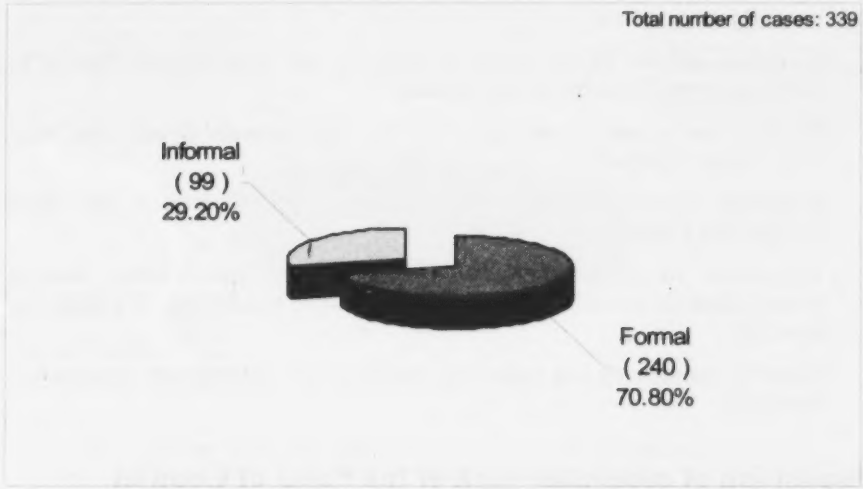
- Providing advice and assistance on issues relating to various aspects of the reform of the internal justice system and contributing to the preparation of the reports of the Secretary-General on various aspects of the reform of the internal justice system
- Providing updates on the status of work of the Joint Appeals Boards to different oversight bodies at their request
- Drafting and adopting new rules for the Joint Appeals Boards and Joint Disciplinary Committees
- Preparing plenary meetings for the Joint Appeals Boards and Joint Disciplinary Committees
- Preparation of training materials and modules and holding training presentations for participants in the internal justice system and, in Vienna, for new staff
- Creating, maintaining and improving websites, case management systems and databases.

III. Disposition of cases and work of the Panel of Counsel

12. In 2007, 339 new cases were brought to the Panel of Counsel in New York, compared with 294 new cases in 2006, an increase of 15.31 per cent.[2] Of these 339 new cases, 240 went through formal appeals processes and 99 were dealt with informally (see figure I). In 2006, there had been 194 formal cases and 100 informal cases. Formal cases increased by 23.71 per cent from 2006 to 2007, while informal cases decreased by 1 per cent.

[2] Although many cases reported as new cases in previous reports continue to involve the time and attention of both counsel and the Coordinator, they are not included here.

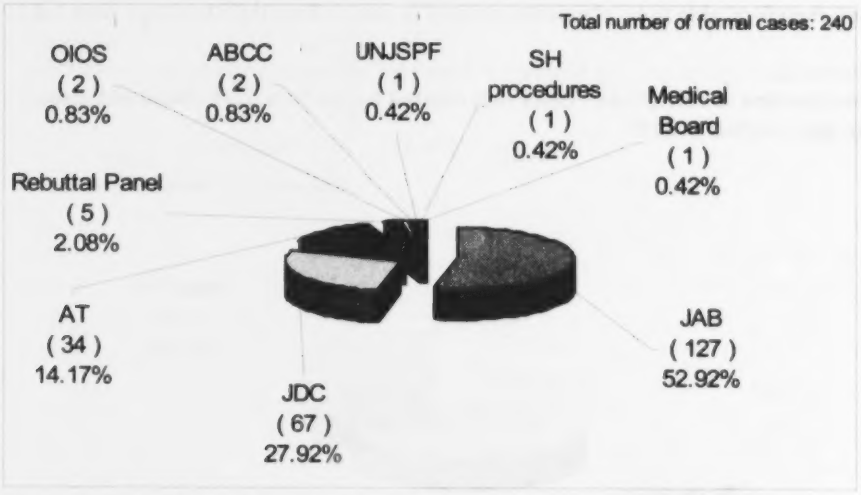
Figure I
Distribution of informal and formal cases in 2007



13. The distribution of the 240 formal cases by recourse body is shown in figure II below. In comparing the statistics of 2006 with those of 2007, the number of cases taken to the Joint Appeals Board increased by 30.93 per cent and the number of cases taken to the United Nations Administrative Tribunal increased by 30.77 per cent. The number of cases taken to the Joint Disciplinary Committee increased by 26.42 per cent from the previous period, from 53 cases in 2006 to 67 cases in 2007. An increase in disciplinary cases is particularly significant, as the cases are generally more complex than other types of cases and are often much more labour-intensive.[3]

[3] Disciplinary cases (see figure III) comprise all cases of a disciplinary nature and include cases in the investigative stages and those that seek recourse to the United Nations Administrative Tribunal. Cases before the Joint Disciplinary Committee (see figure II) are those of a disciplinary nature that involve formal hearings before the established Joint Disciplinary Committee of the Secretariat, as well as those established by other United Nations funds and programmes, i.e., the Disciplinary Committee of the United Nations Development Programme, the United Nations Population Fund and the United Nations Office for Project Services, and the United Nations Children's Fund ad hoc disciplinary committees.

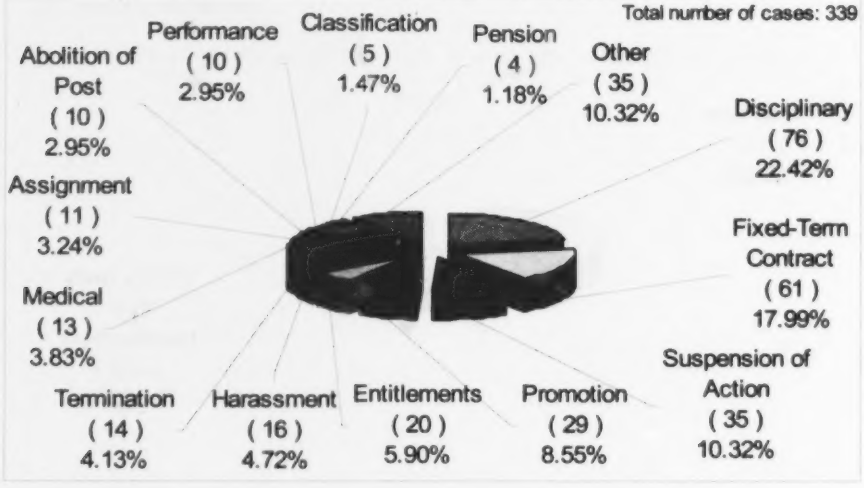
Figure II
Distribution of formal cases by recourse body in 2007



Abbreviations: ABCC, Advisory Board on Compensation Claims; AT, United Nations Administrative Tribunal; JAB, Joint Appeals Board; JDC, disciplinary committees of the Secretariat and United Nations funds and programmes; OIOS, Office of Internal Oversight Services; SH, sexual harassment procedures; and UNJSPF, United Nations Joint Staff Pension Fund.

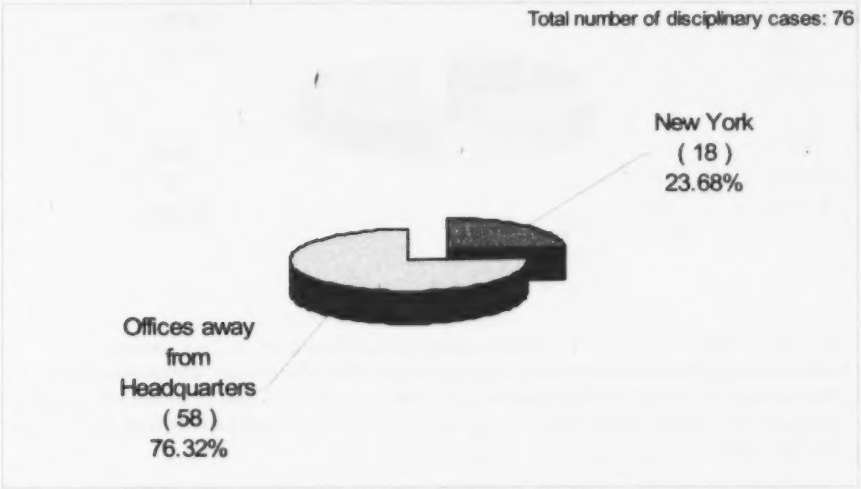
14. As shown in figure III below, most of the 339 cases in 2007 concerned disciplinary matters (22.42 per cent); non-renewals or terminations of fixed-term contracts (17.99 per cent); and suspensions of action (10.32 per cent).

Figure III
Subject and respective number of new cases dealt with by the New York Panel of Counsel during 2007



15. As seen in figure IV below, in 2007 a substantial majority (76.32 per cent) of disciplinary cases represented by members of the Panel of Counsel involved clients who were based in offices away from United Nations Headquarters and who were not, therefore, able to be physically present in cases where their hearings were held.

Figure IV
Distribution of disciplinary cases represented by the New York Panel of Counsel by duty station in 2007

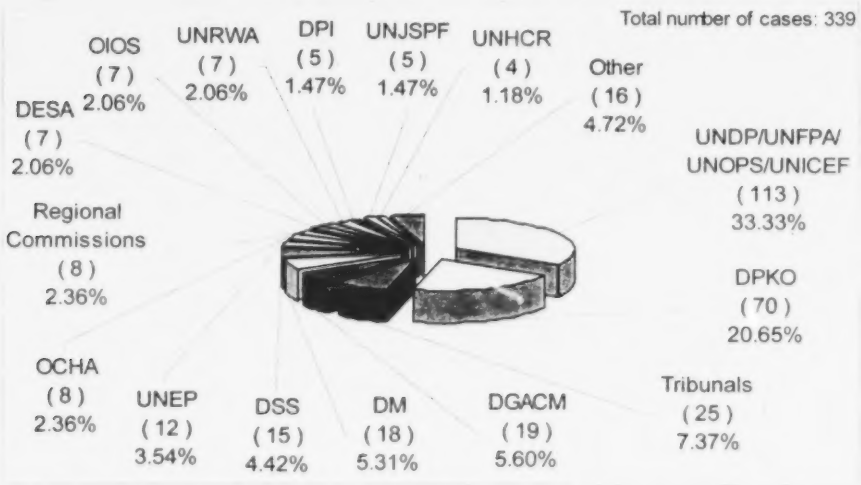


16. Figure V below shows the distribution of all cases represented by the New York Panel of Counsel in 2007 where the clients were stationed either in New York or at offices away from Headquarters.

Figure V
Distribution of cases by duty station in 2007

17. Figure VI below shows the distribution of cases (originated in 2007) by Departments of the Secretariat and the Funds and Programmes.

Figure VI
Distribution of cases represented by Panel of Counsel by department in 2007



Abbreviations: DESA, Department of Economic and Social Affairs; DGACM, Department for General Assembly and Conference Management; DM, Department of Management; DPI, Department of Public Information; DPKO, Department of Peacekeeping Operations; DSS, Department of Safety and Security; OCHA, Office for the Coordination of Humanitarian Affairs; OIOS, Office of Internal Oversight Services; Tribunals, International Tribunal for the former Yugoslavia and International Tribunal for Rwanda; UNDP, United Nations Development Programme; UNEP, United Nations Environment Programme; UNFPA, United Nations Population Fund; UNHCR, Office of the United Nations High Commissioner for Refugees; UNICEF, United Nations Children's Fund; UNJSPF, United Nations Joint Staff Pension Fund; UNOPS, United Nations Office for Project Services; UNRWA, United Nations Relief and Works Agency for Palestine Refugees in the Near East.

18. **The General Assembly may wish to take note of the present report.**